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# Fax Cover Sheet

Date: 01 Feb 2004

Transmitted  
2/1/04  
Jan

To: David Grillo	From: Jeffrey A. Smith
Application/Control Number: 09/490,529	Art Unit: 3625
Fax No.: 216-696-8731	Phone No.: 703-308-3588
Voice No.: 216-696-8730	Return Fax No.: (703) 872-9306
Re: Courtesy Copy	CC:

Urgent     For Review     For Comment     For Reply     Per Your Request

Comments:

Mr. Grillo,

Transmitted herewith is a copy of the Interview Summary for the discussion we had on Jan. 31, 2004. This Summary will be mailed in due course.

Jeffrey A. Smith  
Acting SPE  
Art Unit 3625

Number of pages 4 including this page

#### STATEMENT OF CONFIDENTIALITY

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\*\*\* ACTIVITY REPORT \*\*\*  
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ST. TIME	CONNECTION TEL/ID	SENDER NAME	NO.	MODE	PGS.	RESULT
*01/17 15:56	917148891406		0302	TRANSMIT	0	NG 00'00 0 #018
*01/18 15:06			8663	AUTO RX	ECM 22	OK 07'10
*01/18 17:34	919497573543		0303	TRANSMIT	ECM 5	OK 02'08
*01/18 17:40	919497573543		0304	TRANSMIT	ECM 7	OK 02'48
*01/18 17:44	919497573543		0305	TRANSMIT	ECM 7	OK 02'52
*01/20 12:36	914106667274		0306	TRANSMIT	0	NG 00'00 0 #018
*01/20 20:12			8664	AUTO RX	G3 3	OK 02'07
*01/20 20:28	919497573543		0307	TRANSMIT	ECM 1	OK 00'35
*01/20 20:30	919497573543		0308	TRANSMIT	ECM 1	OK 00'34
*01/21 09:04	PTO ILL	703 3056956	0309	MANUAL TX	ECM 12	OK 04'13
*01/21 09:54		912125969090	0310	TRANSMIT	ECM 2	OK 00'50
*01/21 11:24		92023836610	0311	TRANSMIT	ECM 4	OK 01'30
*01/21 11:36		914105939664	0312	TRANSMIT	ECM 4	OK 00'55
*01/21 13:09		915058394017	0313	TRANSMIT	ECM 10	OK 03'44
01/21 13:22		912155683439	0314	TRANSMIT	ECM 2	OK 00'59
01/21 13:54		913105405631	0315	TRANSMIT	0	NG 00'00 0 #018
01/22 15:44		914102630932	0316	TRANSMIT	ECM 2	OK 00'29
01/22 16:52		914102630932	0317	TRANSMIT	ECM 2	OK 00'40
01/23 10:57		918188798005	0318	TRANSMIT	ECM 2	OK 00'44
01/23 14:42		916072563628	0319	TRANSMIT	ECM 27	OK 08'36
01/23 14:57		913015850138	0320	TRANSMIT	ECM 7	OK 01'57
01/26 11:50	GRiffin AND SZIP	917039797429	0321	TRANSMIT	ECM 2	OK 00'49
		97037467352	0322	TRANSMIT	ECM 2	OK 00'40
01/27 12:12		912025880589	0323	TRANSMIT	ECM 2	OK 01'38
01/27 15:41		918173322114	0324	TRANSMIT	ECM 28	OK 06'44
01/28 10:13		913105405631	0325	TRANSMIT	0	NG 00'00 0 #018
01/28 10:15			0326	MANUAL TX	ECM 3	OK 00'58
01/28 14:16		919198622260	0327	TRANSMIT	ECM 8	OK 02'54
01/29 11:36		917025799825	0328	TRANSMIT	0	NG 00'00 0 STOP
01/29 11:37		917025799825	0329	TRANSMIT	ECM 1	OK 00'24
01/29 13:04		919497573101	0330	TRANSMIT	0	NG 00'06 0 #003
01/29 13:07		919497573101	0331	TRANSMIT	ECM 12	OK 06'22
01/29 14:35		912147568569	0332	TRANSMIT	ECM 3	OK 01'57
01/29 16:41		918596695748	0333	TRANSMIT	ECM 2	OK 00'39
01/30 09:14		917035512030	0334	TRANSMIT	ECM 1	OK 00'33
01/30 13:11		918664148261	0336	TRANSMIT	ECM 3	NG 01'17 3 STOP
01/30 13:13		9912126882449	0335	TRANSMIT	0	NG 00'00 0 STOP
01/30 13:13		912126882449	0337	TRANSMIT	ECM 6	OK 01'54
01/30 13:16		912126882449	0338	TRANSMIT	ECM 6	OK 02'02
02/01 17:17	AMIN. & TUROCY L	912166968731	0339	TRANSMIT	ECM 4	OK 01'28

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/490,529	ROSLAK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cuong Nguyen	3625	

All participants (applicant, applicant's representative, PTO personnel):

(1) Jeffrey A. Smith. (3) \_\_\_\_\_.

(2) David Grillo. (4) \_\_\_\_\_.

Date of Interview: 30 January 2004.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: \_\_\_\_\_.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

(1) A identification of arguments need not be lengthy or elaborate. However, the examiner may request further information or explanation of arguments made during the interview.



Jeffrey A. Smith  
Primary Examiner

Acting SPE  
AU 3625

Examiner Note: You must sign this form unless it is an attachment to a signed Office action.

Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### **Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

### **37 CFR §1.2 Business to be transacted in writing.**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Mr. Grillo inquired as to the propriety of the Election of Species requirement mailed 31 December 2003. Mr. Smith indicated that he had reviewed the requirement and agreed with Mr. Grillo that such requirement was not appropriate. Mr. Smith stated that the requirement will be vacated and that the case will be forwarded to the Examiner for appropriate action. Mr. Grillo indicated that a provisional Election had be filed in order to comply with the requirement. Mr. Smith stated that such provisional Election will be considered moot in view of the removal of the election requirement. No further reply is required of Applicant at this time. Mr. Smith stated that he would review this case with the Examiner in order to determine the appropriate course of action. A correspondence from the Office will follow.